

State of New Hampshire Banking Department

In re the Matter of:) Case No.: 08-BD-010
)
State of New Hampshire Banking))
)
Department,) MOTION TO AMEND OCTOBER 14, 2008
) STAFF PETITION TO ADD IDENTIFIED
Petitioner,) RESPONDENTS LEADSYSTEMS, Inc. AND TOM
) HOOVER
and)
)
Tom Hoover, and LeadSystems, Inc.)
)
(d/b/a "Mortgage Protection Services,)
)
Processing Center, PO Box 661028,)
)
Arcadia, California 91066-9812"),)
)
Respondents)
)

MOTION TO AMEND

AMENDED STATEMENT OF ALLEGATIONS

I. The staff of the Banking Department, State of New Hampshire (hereinafter referred to as the "Department") alleges the following facts:

1. On or about July 24, 2008, the Department received a written communication from Financial Institution A, a state-chartered co-operative bank located in New Hampshire, regarding a mailing from Respondent Mortgage Protection Services, Processing Center, PO Box 661028, Arcadia, California 91066-9812" (hereinafter, "Respondent Mortgage Protection Services - Arcadia").
2. Financial Institution A indicated in the July 22, 2008 letter that this solicitation to Consumer A using the name of Financial Institution A is in violation of Senate Bill 0315.

- 1 3. Respondent Mortgage Protection Services - Arcadia's solicitation
2 advised that Consumer A may qualify for the new low cost mortgage
3 free home protection program, which may help pay Consumer A's
4 mortgage if Consumer A should pass prior to the mortgage being paid
5 off.
- 6 4. Respondent Mortgage Protection Services - Arcadia's solicitation
7 further advised Consumer A to return the solicitation for
8 additional information.
- 9 5. Respondent Mortgage Protection Services - Arcadia's solicitation
10 references the bank name in one place on the solicitation itself:
11 a. In the middle of the index card-sized solicitation just above
12 Consumer A's name and address, but below the amount and date of
13 Consumer A's mortgage.
- 14 6. Respondent Mortgage Protection Services - Arcadia fails to
15 properly, clearly and conspicuously reference in bold face type in
16 the same font as is predominately used in the solicitation that
17 Respondent is not affiliated with, authorized by, endorsed by any
18 financial institution and that loan information is retrieved from
19 public records.
- 20 7. Respondent Mortgage Protection Services - Arcadia has been subject
21 to a similar cease and desist order in 2007, for such solicitation
22 in the State of Illinois, by the State of Illinois Department of
23 Financial and Professional Regulation, Division of Banking.
- 24 8. Respondent Mortgage Protection Services - Arcadia does not appear
25 to have received any authorization (written or otherwise) to use
 the full or abbreviated name, trade name, service mark, or
 trademark of Financial Institution A.

1 9. The Department received information from the State of Wisconsin
2 that the actual name of Respondent Mortgage Protection Services -
3 Arcadia is LeadSystems, Inc. located in Arcadia, California.

4 10. The Department received information from the State of Wisconsin
5 that the principal owner of LeadSystems, Inc is Tom Hoover.

6 **ISSUES OF LAW**

7 II. The staff of the Banking Department, State of New Hampshire alleges the
8 following issues of law:

9 11. The Department re-alleges the above-stated facts in paragraphs 1
10 through 10. The Department has jurisdiction over state-chartered
11 banks pursuant to RSA 383:9 ("Duties").

12 12. Pursuant to RSA 384:12-a, IV ("Cease and Desist Order"), the Bank
13 Commissioner (hereinafter, "Commissioner") may issue and serve upon
14 an individual or business entity a cease and desist order for any
15 act or conduct that is in violation of RSA 384:67 ("Unauthorized
16 and Deceptive Use").

17 13. Pursuant to RSA 384:68 ("Enforcement"), the Commissioner may issue
18 a cease and desist order against any individual or business entity
19 which engages in any act or conduct that violates RSA 384:67
20 involving a financial institution under the jurisdiction of the
21 Commissioner and may bring legal action to enforce the order.

22 14. Pursuant to RSA 384:67, IV, for the purposes thereof, the term
23 "financial institution" shall include a state-chartered co-
24 operative bank as defined in RSA 384-B:1, I.

25 15. Pursuant to RSA 384:67, I (a), no individual or business entity
shall, without the prior written authorization of a financial
institution, "use the full or abbreviated name, trade name, service
mark, or trademark of any financial institution in any written,

1 electronic, or oral advertisement or solicitation for products and
2 services."

3 16. Pursuant to RSA 384:67, I (c), no individual or business entity
4 shall, without the prior written authorization of a financial
5 institution, include specific loan information relative to a
6 specifically identified consumer that is publicly available "(1) in
7 any written or electronic solicitation, unless the advertisement or
8 solicitation clearly and conspicuously states on the front page or
9 introduction in bold-faced type that is the same font size as is
10 predominately used in the advertisement or solicitation disclosing
11 that such individual or business entity is not sponsored by or
12 affiliated with, and that such solicitation is not authorized by,
13 the financial institution and that the information was received
14 from public records."

15 **RELIEF REQUESTED**

16 III. The staff of the Banking Department requests the Commissioner take the
17 following action:

- 18 1. Find as fact the allegations contained in section I of the Amended
19 Statement of Allegations of this petition.
- 20 2. Make conclusions of law relative to the allegations contained in section
21 II of the Statement of Allegations of this petition.
- 22 3. Amend the previously issued Cease and Desist Order consistent with the
23 attached proposed amended Cease and Desist Order to include Respondent
24 LeadSystems, Inc. and Respondent Tom Hoover.
- 25 4. Take such other administrative and legal actions as are necessary for
enforcement of the New Hampshire Banking laws, the protection of New
Hampshire citizens, and to provide other equitable relief.

RIGHT TO AMEND

IV. The Department reserves the right to amend this Petition for Relief and to request that the Banking Department Commissioner take additional administrative action. Nothing herein shall preclude the Department from bringing additional enforcement action under RSA 397-A, RSA 383:10-d or the regulations thereunder.

Respectfully submitted by:

/s/
Maryam Torben Desfosses
Hearings Examiner

11/7/08
Date